

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Hebert	Team: Squad #2	CCRB Case #: 201800964	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/28/2018 10:00 PM	Location of Incident: § 87(2)(b) [REDACTED]	Precinct: 46	18 Mo. SOL 7/28/2019	EO SOL 7/28/2019	
Date/Time CV Reported Mon, 01/29/2018 9:55 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 02/05/2018 10:58 AM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Bernard Solomon	02307	931248	046 DET
2. DT2 Ernest Dorvil	00241	917558	DB BXHM

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Bernard Solomon	Abuse: Detective Bernard Solomon entered § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]
B.DT2 Ernest Dorvil	Abuse: Detective Ernest Dorvil entered § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]
C.DT3 Bernard Solomon	Abuse: Detective Bernard Solomon searched § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]
D.DT2 Ernest Dorvil	Abuse: Detective Ernest Dorvil searched § 87(2)(b) [REDACTED] in the Bronx.	[REDACTED]

## Case Summary

On January 29, 2018, § 87(2)(b) called the IAB Command Center to file this complaint, which was subsequently received by the CCRB on February 5, 2018.

On January 28, 2018, at approximately 10:00 p.m., Detective Bernard Solomon of the 46<sup>th</sup> Precinct Detective Squad and Detective Ernest Dorvil of the Bronx Homicide Squad went to § 87(2)(b) in the Bronx in order to find and speak to a witness § 87(2)(f). Detective Solomon and Detective Dorvil entered (Allegations A and B – Abuse of Authority – Entry, § 87(2)(b) and searched the apartment (Allegations C and D – Abuse of Authority – Search, § 87(2)(b) while § 87(2)(b) and § 87(2)(b) were present.

No video evidence of this incident was found.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Detective Bernard Solomon entered § 87(2)(b) in the Bronx.**

**Allegation (B) Abuse of Authority: Detective Ernest Dorvil entered § 87(2)(b) in the Bronx.**

§ 87(2)(b) did not respond to the CCRB’s contact attempts. On February 6, 2018, § 87(2)(b) provided a telephone statement and accepted mediation for this case (Board Review 01). The subject officers rejected mediation and the case was sent for investigation. § 87(2)(b) was interviewed at the CCRB on July 16, 2018. Detective Solomon was interviewed at the CCRB on August 8, 2018. Detective William Seligson of the 46<sup>th</sup> Precinct Detective Squad was interviewed at the CCRB on August 22, 2018. Detective Dorvil was interviewed at the CCRB on October 2, 2018.

§ 87(2)(b) stated that he heard a knock at the front door, approached it, and looked through the peephole. § 87(2)(b) saw two officers through the peephole. § 87(2)(b) went to get § 87(2)(b) the owner of the apartment. § 87(2)(b) went to the front door and opened it wide enough for Detective Solomon and Detective Dorvil to enter, then moved aside so that they could enter. Detective Solomon and Detective Dorvil then entered and § 87(2)(b) closed the door behind them. § 87(2)(b) explained to the officers that he had not opened the door when he initially heard the knock because he had to ask § 87(2)(b) the apartment owner, for permission before opening the door to anyone.

Detective Solomon stated that he went to the apartment with Detective Dorvil seeking to locate and interview § 87(2)(b), § 87(2)(f), § 87(2)(e) (Board Review 09). After they knocked on the door, § 87(2)(b) answered and opened the door such that it was approximately halfway open and her entire body was visible in the opening. Detective Solomon asked § 87(2)(b) whether § 87(2)(b) was there. Either Detective Solomon or Detective Dorvil asked § 87(2)(b) if they could come inside to talk to § 87(2)(b). In response, § 87(2)(b) opened the door wider, walked away in order to move her body out of the doorway, and gestured with her hand outward to indicate to officers that they could come inside, without saying anything as she did so. Later during his CCRB interview, Detective Solomon stated that, when § 87(2)(b) was asked if the officers could come inside and talk to her, she responded, “Yes.”

Detective Dorvil stated that, after they knocked on the door, § 87(2)(b) opened the door and introduced herself as § 87(2)(b)'s grandmother and a resident of the apartment. § 87(2)(b) invited Detective Dorvil and Detective Solomon into the apartment by gesturing with her hand and saying, "Come in," and they entered.

In People v. Taylor, 111 A.D.2d 520 (1985), an individual opened a door to police officers who then identified themselves, and the individual's conduct in stepping back from the open door was deemed by the court to be consent for the officers to enter (Board Review 02). The court ruled this to be so based on the well-established idea that consent can be verbal or non-verbal.

§ 87(2)(g)

**Allegation (C) Abuse of Authority: Detective Bernard Solomon searched § 87(2)(b) in the Bronx.**

**Allegation (D) Abuse of Authority: Detective Ernest Dorvil searched § 87(2)(b) in the Bronx.**

It is undisputed that Detective Solomon and Detective Dorvil searched the apartment for § 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that as Detective Dorvil and Detective Solomon walked around the apartment and knocked on bedroom doors, § 87(2)(b) became angry and told the officers that she did not like them searching and that they had to leave.

Detective Solomon stated that he spoke with § 87(2)(b) about § 87(2)(b)'s whereabouts. While engaging in this conversation for approximately two minutes, Detective Solomon and Detective Dorvil heard the sound of music or television as well as the sound of movement coming from the back of the apartment. The noise sounded like people walking or moving things and it led Detective Solomon to believe that additional people were in the apartment. Detective Solomon and Detective Dorvil asked first § 87(2)(b) then § 87(2)(b) whether anyone else was inside the apartment, and they both responded, "No." Detective Solomon believed that § 87(2)(b) and § 87(2)(b) were lying. Detective Solomon said, "I'm going to take a look around." During his CCRB interview, Detective Solomon did not recall hearing a response from § 87(2)(b) or § 87(2)(b) § 87(2)(b) never said anything during the incident to object to officers' presence in her apartment and she never told them to leave.

Detective Dorvil stated that, in response to Detective Dorvil's and Detective Solomon's questions, § 87(2)(b) stated that § 87(2)(b) lived in the apartment but was not there at the time. § 87(2)(b) while standing next to the kitchen which led to a hallway toward the back of the apartment, said that if Detective Dorvil and Detective Solomon did not believe her, they could "look around," and she gestured toward the back hallway that led off of the kitchen. Throughout the incident, § 87(2)(b) never said anything about wanting Detective Solomon and Detective Dorvil to "stop searching," or anything to that effect, and § 87(2)(b) never said anything about wanting them to leave.

§ 87(2)(g)

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party (Board Review 04 and 08).
- Detective Bernard Solomon has been a member of service for 16 years, and has been a subject in eight allegations, none of which were substantiated, in five prior CCRB complaints.
- Detective Ernest Dorvil has been a member of service for 22 years, and has been a subject in three allegations, none of which have been substantiated, in two prior CCRB complaints.

- § 87(2)(b) accepted mediation for this complaint, but mediation was subsequently rejected by the subject officers.
- On October 30, 2018, an inquiry was sent to the Comptroller's Office of the City of New York to determine whether a Notice of Claim was filed for this incident. The inquiry results will be added to the case file upon receipt (Board Review 05).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Investigator: \_\_\_\_\_

Signature \_\_\_\_\_ Print Title & Name \_\_\_\_\_ Date \_\_\_\_\_

Squad Leader: \_\_\_\_\_  
Signature                      Print Title & Name                      Date

Reviewer: \_\_\_\_\_  
Signature                      Print Title & Name                      Date